

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO : COUNTY OF TAOS

MARY MICHELLE CHRISMAN

COMPLAINT

Plaintiff

vs.

UNITED STATES POSTAL SERVICE

Defendant

Plaintiff, by her attorneys, LoTempio P.C. Law Group, as and for her Complaint against Defendant herein, alleges as follows, upon information and belief:

1. Plaintiff was and is a citizen of the United States of America and a resident of the State of New Mexico, County of Taos, residing at 2632 Eighth Street NW, Albuquerque, NM.

2. The Court has jurisdiction by reason of §409(c) of Title 39 of the United States Code, and Chapter 171 of Title 28 of the United States Code known as the Federal Tort Claim Act.

3. This Court is the appropriate venue for this action pursuant to 28 U.S.C. §1402(b) given that this is the district in which the Plaintiff resides.

4. Defendant, UNITED STATES POSTAL SERVICE, is an independent agency of the executive branch of the United States government which, through its agents, servants and employees at all times hereinafter mentioned, did and does operate a main Post Office located at 318 Paseo Del Pueblo Norte, Taos, New Mexico.

5. Pursuant to and in compliance with the statutes and regulations made and provided, including 28 U.S.C. §2675(a), 39 U.S.C. §912 and 28 U.S.C. §2401(b),

Plaintiff filed an administrative claim for Plaintiff's conscious pain and suffering and economic damage, on July 30, 2021 via certified mail, return receipt requested which was acknowledged received on or about that date with the federal agency out of whose activities the claims arose. A copy of the "Claim for Damage, Injury, or Death" filed on behalf of the Plaintiff, as well as the affidavit confirming service upon the United States Postal Service are annexed hereto collectively as **Exhibit "A."**

6. More than six months have elapsed since the Defendant, by and through said federal agency, was placed on notice of the administrative claims, and the United States Postal Service has failed to make a final disposition of the claim. As a result, the failure to resolve the claim within six months is deemed a final denial pursuant to 28 U.S.C. §2675.

7. That the within action is commenced within six (6) months of denial of Plaintiff's administrative claim.

8. Plaintiff has duly complied with all conditions precedent to commencement of this action.

9. On or about January 3, 2020, the Plaintiff, MARY MICHELLE CHRISMAN, was located outside the United States Postal facility located at 318 Paseo Del Pueblo Norte, Taos, NM, at which time she was caused to slip and fall on ice located on the sidewalk and parking lot at or near the exit to the building located near the center of the southwestern side of the building.

10. As a result of the aforementioned incident, the Plaintiff has sustained serious personal injuries, including, but not limited to pelvic fractures, resulting in her disability from employment subsequent to the date of the accident as well as medical

treatment.

11. The aforementioned accident was caused by the negligence and/or culpable conduct of the Defendant, its agents, servants and/or employees, without any contributory negligence on the part of the Plaintiff giving rise to the accident.

12. The Plaintiff has claimed damages in the amount of Two Million Dollars for personal injuries sustained as a result of the aforementioned accident, and the Defendant has wholly failed to settle or otherwise compromise the Plaintiff's claim.

WHEREFORE, Plaintiff asks for an Order of this Court as follows:

- a) Granting the Plaintiff judgment in the above-captioned matter in the total amount of Two Million Dollars; and
- b) For such other and further relief as this Court deems just and proper.

DATED: July 22, 2022

LoTEMPIO P.C. LAW GROUP

/s/Boyd L. Earl, Esq.
BOYD L. EARL, ESQ.
Attorneys for Plaintiff
181 Franklin Street
Buffalo, New York 14202
(716) 855-3761
boydearl@gmail.com